

**FILED**  
DISTRICT COURT OF GUAM  
MAY 16 2012  
JEANNE G. QUINATA  
CLERK OF COURT

MARY K. ALEJANDRO  
Acting Regional Solicitor  
DAVID M. KAHN  
Counsel for Employment Standards  
JOSEPH M. LAKE Trial Attorney  
lake.joseph@dol.gov  
California State Bar Number 246679  
United States Department of Labor  
Office of the Solicitor  
90 Seventh Street, Suite 3-700  
San Francisco, California 94103  
Telephone: (415) 625-7758  
Facsimile: (415) 625-7772

Attorneys for Plaintiff, Hilda L. Solis, Secretary  
United States Department of Labor

UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF GUAM

HILDA L. SOLIS, Secretary of Labor, United States Department of Labor,	)	Case No.: 12-00008
	)	
Plaintiff,	)	COMPLAINT FOR VIOLATIONS OF THE
	)	FAIR LABOR STANDARDS ACT
v.	)	
	)	
ACME UNIVERSAL, INC., a corporation;	)	
and XIN BO "PAUL" YU, an individual,	)	
	)	
Defendants.	)	
	)	
	)	

1. Plaintiff, HILDA L. SOLIS, Secretary of Labor, United States Department of Labor, brings this action to enjoin defendants ACME UNIVERSAL, INC., a corporation, and XIN BO "PAUL" YU, an individual, from violating the provisions of the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. § 201 *et seq.*, hereinafter called the Act, pursuant to Section 17 of the Act, 29 U.S.C. § 217; and to recover unpaid minimum wage and overtime compensation owing to Defendants' employees, together with an equal amount as liquidated damages, pursuant to section 16(c) of the Act, 29 U.S.C. § 216(c).

*Complaint for Violations of the FLSA*

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1           2.       Jurisdiction of this action is conferred upon the Court by sections 16(c) and 17 of  
2 the Act, 29 U.S.C. §§ 216(c) and 217, and 28 U.S.C. §§ 1331 and 1345.

3           3.       Venue lies in the United States District Court for Guam, pursuant to 28 U.S.C. §  
4 1391(b) as the events giving rise to the claims occurred in Guam.

5           4.       (a)     Defendant, ACME UNIVERSAL, INC., is and at all times hereinafter  
6 mentioned was a corporation with an office and a place of business at 114 Taitano Street, Route  
7 16, Harmon, Guam 96913, within the jurisdiction of this Court, and is and at all times hereinafter  
8 mentioned was engaged in the residential construction business.

9                   (b)     Defendant, XIN BO "PAUL" YU, an individual, at all times hereinafter  
10 mentioned acted directly or indirectly in the interest of Acme Universal in relation to its  
11 employees.

12           5.       Defendant ACME UNIVERSAL, INC., is and at all times hereinafter mentioned  
13 was engaged in related activities performed through unified operation or common control for a  
14 common business purpose, and is and at all times hereinafter mentioned was an enterprise within  
15 the meaning of section 3(r) of the Act, 29 U.S.C. § 203(r).

16           6.       Defendant ACME UNIVERSAL, INC., at all times hereinafter mentioned was an  
17 enterprise engaged in commerce or in the production of goods for commerce within the meaning  
18 of sections 3(s)(1)(A) of the Act, 29 U.S.C. § 203(s)(1)(A), in that said enterprise at all times  
19 hereinafter mentioned had employees engaged in commerce or in the production of goods for  
20 commerce, or employees handling, selling, or otherwise working on goods or materials that have  
21 been moved in or produced for commerce by any person and in that said enterprise has and has  
22 had an annual gross volume of sales made or business done of not less than \$500,000.

23           7.       Defendants have repeatedly violated the provisions of sections 6 and 15(a)(2) of  
24 the Act, 29 U.S.C. §§ 206 and 215(a)(2), by paying employees wages at rates less than the  
25 applicable federal minimum wage in workweeks when said employees were engaged in

1 commerce and in the production of goods for commerce or were employed in an enterprise  
2 engaged in commerce or in the production of goods for commerce, within the meaning of the  
3 Act, as aforesaid.

4 8. Defendants have repeatedly violated the provisions of sections 7 and 15(a)(2) of  
5 the Act, 29 U.S.C. §§ 207 and 215(a)(2), by employing employees who in workweeks were  
6 engaged in commerce or in the production of goods for commerce, or who were employed in an  
7 enterprise engaged in commerce or in the production of goods for commerce, within the meaning  
8 of the Act, as aforesaid, for workweeks longer than forty hours without compensating said  
9 employees for their employment in excess of forty hours per week during such workweeks at  
10 rates not less than one and one-half times the regular rate at which they were employed.

11 9. Defendants, employers subject to the provisions of the Act, repeatedly have  
12 violated the provisions of sections 11(c) and 15(a)(5) of the Act, 29 U.S.C. §§ 211(c) and  
13 215(a)(5), in that they failed to make, keep, and preserve adequate and accurate records of  
14 employees and the wages, hours and other conditions and practices of employment maintained  
15 by them as prescribed by regulations duly issued pursuant to authority granted in the Act and  
16 found in 29 C.F.R. § 516, in that records fail to show adequately and accurately, *inter alia*, the  
17 hours worked each workday and each workweek, as well as the actual rate of pay for employees.

18 10. Beginning May 17, 2009, Defendants willfully violated the aforesaid provisions  
19 of the Act. A judgment which enjoins and restrains such violations and includes the restraint of  
20 any withholding of payment of unpaid minimum wage and overtime compensation found by the  
21 court to be due to present and former employees under the Act is expressly authorized by section  
22 17 of the Act, 29 U.S.C. § 217.

1           **WHEREFORE**, cause having been shown, plaintiff prays for a judgment against  
2 defendants as follows:

3           (a)     For an Order pursuant to Section 17 of the Act, 29 U.S.C. § 217, permanently  
4 enjoining and restraining Defendants, their officers, agents, servants, employees, and those  
5 persons in active concert or participation with them from prospectively violating the provisions  
6 of Section 15 of the Act, 29 U.S.C. § 215; and

7           (b)     For an Order

8                   (1)     pursuant to Section 16(c) of the Act, 29 U.S.C. § 216(c), finding  
9 Defendants liable for unpaid minimum wage and overtime compensation due Defendants'  
10 employees and for liquidated damages equal in amount to the unpaid compensation found due  
11 Defendants' employees listed in the attached Exhibit A for the period beginning May 17, 2009  
12 (additional back wages and liquidated damages may be owed to certain employees presently  
13 unknown to plaintiff for the period covered by this complaint); or in the event liquidated  
14 damages are not awarded;

15                   (2)     pursuant to Section 17 of the Act, 29 U.S.C. § 217, enjoining and  
16 restraining Defendants, their officers, agents, servants, employees and those persons in active  
17 concert or participation with defendants, from withholding payment of unpaid back wages found  
18 to be due Defendants' employees for the period beginning May 17, 2009, and pre-judgment  
19 interest at an appropriate interest rate; and

20           (c)     For an Order awarding plaintiff the costs of this action; and  
21  
22  
23  
24  
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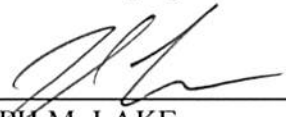
1 (d) For an Order granting such other and further relief as may be necessary or  
2 appropriate.  
3

4 Dated: May 16, 2012

5 M. PATRICIA SMITH  
6 Solicitor of Labor

7 MARY K. ALEJANDRO  
8 Acting Regional Solicitor

9 DAVID M. KAHN  
10 Counsel for Employment Standards

11 By:   
12 JOSEPH M. LAKE  
13 Trial Attorney

14 Attorneys for the Plaintiff Hilda L. Solis, Secretary  
15 of Labor, United States Department of Labor  
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**EXHIBIT A**

1  
2 Li, Hai Feng  
3 Chu, Zhong Lin  
4 Wu, Guang Jin  
5 Liu, Qi Hong  
6 Xie, Zhu Jun  
7 Jiang, Shan Bao  
8 Qin, Long Shen  
9 Liu, Qi Zhou  
10 Zhou, Jun Guo  
11 Cui, Qi Bing  
12 Ge, Jin Chuan  
13 Yu, Jin Xiang  
14 Ji, Wei Dong  
15 Huang, Jian Xiang  
16 He, Wen Ge  
17 He, Fu Quan

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